

UNITED STATES BANKRUPTCY COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA  
DURHAM DIVISION

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In Re:

**Mamie T. Hinson**

Case No. 06-80889

Chapter 13

Social Security No. xxx-xx-6623

Address: 1307-1 Morning Glory Avenue, Durham, NC 27703

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Debtor

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**MOTION TO MODIFY PLAN**

**NOW COMES the Debtor**, by and through counsel undersigned, who moves, under authority of 11 U.S.C. § 1329, to modify the Chapter 13 plan in this case, and in support hereof, the Debtor shows unto this Court the following:

1. This case was filed on July 18, 2006, with the Chapter 13 plan being subsequently confirmed on October 6, 2006.
2. The Debtor proposes to modify the Chapter 13 plan in this case in the following respects:  
  
From:           \$269.00 per month.  
  
To:             \$269.00 per month through April, 2010, followed thereafter by \$269.00 per month, starting July, 2010.
3. In addition, the Debtor requests a “waiver” to move his Chapter 13 plan payment delinquency to the end of the Chapter 13 plan for payment. The Debtor agrees that any Order allowing such waivers shall not be *res judicata* as to timely Motions for Relief filed by secured creditors in this case.
4. The changed circumstances that justify the proposed modification are as follows:
  - a. Debtor is requesting waivers due to the additional medical expense that she must pay for these months.
5. An Amended Schedule I for the Debtor is attached hereto and is incorporated hereto by reference.
6. An Amended Schedule J for the Debtor is attached hereto and is incorporated hereto by reference.

7. The proposed modification conforms to the standards of confirmation set out in 11 U.S.C. §§ 1322 and 1325. This modification is feasible because of the following changes:
  - a. Requesting Waivers.

**Appended Application for an Additional Attorney Fee**

8. Counsel for the Debtor further applies herein, in accordance with Bankruptcy Rule 2016(b), for approval an attorney fee in the amount of \$250.00 to pay for the reasonable value of the services rendered, and to be rendered, with respect to this motion to modify, including, without limitation, the following:
  - a. Calls from and to the Debtor to discuss changes in his situation which necessitate this motion, to explain the procedures and requirements involved, and to advise the Debtor accordingly; and
  - b. Contact with the Trustee's office concerning the proposed modification; and
  - c. Re-evaluating and recalculating the Chapter 13 plan in this case; and
  - d. Drafting this Motion and Certificate of Service; and
  - e. Service of the Motion on all interested parties, which includes all creditors scheduled in this case, at the expense of the undersigned law firm; and
  - f. Filing of the Motion; and
  - g. Prospective attendance with Debtor at the hearing upon the motion, if any; and
  - h. Prospective drafting and filing of the proposed Order and Deputy Clerk's Certificate of Service; and
  - i. Prospective follow-up instructions to client, as will be necessary, following the granting of this motion.

These services were not taken into account in the contract for legal services entered into between the undersigned and the Debtor.

WHEREFORE, the Debtor prays that this Court grant his Motion, and modify the Chapter 13 plan accordingly. In addition, counsel undersigned requests that this Court approve a fee in the amount of \$250.00 to compensate undersigned for the services rendered or to be rendered with respect to this motion, said fee to be paid by the Chapter 13 Trustee as an administrative claim in this case.

Dated: April 30, 2010

**LAW OFFICES OF JOHN T. ORCUTT, P.C.**

/s John T. Orcutt  
John T. Orcutt  
North Carolina State Bar No.: 21210  
6616-203 Six Forks Road  
Raleigh, N.C. 27615  
(919) 847-9750

MTM waiver.wpd (rev. May 23, 2006)

## CERTIFICATE OF SERVICE

I, Patty Cherigo, certify under penalty of perjury that I am, and at all times hereinafter mentioned was, more than eighteen (18) years of age and that on April 30, 2010 , I served copies of the foregoing **MOTION TO MODIFY PLAN** electronically, addressed to the following parties:

Richard M. Hutson, II  
Chapter 13 Trustee

Michael West  
U.S. Bankruptcy Administrator

and by regular first-class U.S. mail, addressed to the following parties:

Mamie T. Hinson  
1307-1 Morning Glory Avenue  
Durham, NC 27703

All creditors with duly filed claims as listed on the attached Report of Claims Filed at the addresses listed thereon.

/s Patty Cherigo  
Patty Cherigo

In re Mamie T Hinson

Debtor(s)

Case No. 06-80889

SCHEDULE I - CURRENT INCOME OF INDIVIDUAL DEBTOR(S) - AMENDED

The column labeled "Spouse" must be completed in all cases filed by joint debtors and by every married debtor, whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed. Do not state the name of any minor child.

Debtor's Marital Status:  <b>Separated</b>	DEPENDENTS OF DEBTOR AND SPOUSE	
	RELATIONSHIP(S):  <b>None.</b>	AGE(S):
<b>Employment: *</b>	DEBTOR	SPOUSE
Occupation	<b>School Bus Driver</b>	
Name of Employer	<b>Durham Public School</b>	
How long employed	<b>6 years</b>	
Address of Employer	<b>P.O. Box 30002 Durham, NC 27702</b>	
<b>*See Attachment for Additional Employment Information</b>		

INCOME: (Estimate of average or projected monthly income at time case filed)		DEBTOR	SPOUSE
1. Monthly gross wages, salary, and commissions (Prorate if not paid monthly)		\$ 1,911.00	\$ 0.00
2. Estimate monthly overtime		\$ 0.00	\$ 0.00
3. SUBTOTAL		\$ 1,911.00	\$ 0.00
4. LESS PAYROLL DEDUCTIONS			
a. Payroll taxes and social security		\$ 272.61	\$ 0.00
b. Insurance		\$ 75.74	\$ 0.00
c. Union dues		\$ 0.00	\$ 0.00
d. Other (Specify):		\$ 0.00	\$ 0.00
		\$ 0.00	\$ 0.00
5. SUBTOTAL OF PAYROLL DEDUCTIONS		\$ 348.35	\$ 0.00
6. TOTAL NET MONTHLY TAKE HOME PAY		\$ 1,562.65	\$ 0.00
7. Regular income from operation of business or profession or farm (Attach detailed statement)		\$ 0.00	\$ 0.00
8. Income from real property		\$ 0.00	\$ 0.00
9. Interest and dividends		\$ 0.00	\$ 0.00
10. Alimony, maintenance or support payments payable to the debtor for the debtor's use or that of dependents listed above		\$ 0.00	\$ 0.00
11. Social security or government assistance (Specify): <b>Social Security</b>		\$ 724.00	\$ 0.00
		\$ 0.00	\$ 0.00
		\$ 0.00	\$ 0.00
12. Pension or retirement income		\$ 0.00	\$ 0.00
13. Other monthly income (Specify):		\$ 0.00	\$ 0.00
		\$ 0.00	\$ 0.00
14. SUBTOTAL OF LINES 7 THROUGH 13		\$ 724.00	\$ 0.00
15. AVERAGE MONTHLY INCOME (Add amounts shown on lines 6 and 14)		\$ 2,286.65	\$ 0.00
16. COMBINED AVERAGE MONTHLY INCOME: (Combine column totals from line 15; if there is only one debtor repeat total reported on line 15)		\$ 2,286.65	

(Report also on Summary of Schedules and, if applicable, on Statistical Summary of Certain Liabilities and Related Data)

17. Describe any increase or decrease in income reasonably anticipated to occur within the year following the filing of this document:  
**None Anticipated**

In re Mamie T Hinson

Debtor(s)

Case No. 06-80889

**SCHEDULE I - CURRENT INCOME OF INDIVIDUAL DEBTOR(S) - AMENDED**  
**Attachment for Additional Employment Information**

Debtor		
Occupation	Grill Attendant	
Name of Employer	Village Bowling Lanes	
How long employed	5 years	
Address of Employer	330 Hardee Street Durham, NC 27703	

SCHEDULE J - CURRENT EXPENDITURES OF INDIVIDUAL DEBTOR(S) - AMENDED

Complete this schedule by estimating the average or projected monthly expenses of the debtor and the debtor's family at time case filed. Prorate any payments made bi-weekly, quarterly, semi-annually, or annually to show monthly rate.

Check this box if a joint petition is filed and debtor's spouse maintains a separate household. Complete a separate schedule of expenditures labeled "Spouse."

1. Rent or home mortgage payment (include lot rented for mobile home)		\$ 539.00
a. Are real estate taxes included?	Yes No X	
b. Is property insurance included?	Yes No X	
2. Utilities:		
a. Electricity and heating fuel		\$ 96.65
b. Water and sewer		\$ 0.00
c. Telephone		\$ 57.00
d. Other		\$ 0.00
3. Home maintenance (repairs and upkeep)		\$ 0.00
4. Food		\$ 200.00
5. Clothing		\$ 50.00
6. Laundry and dry cleaning		\$ 50.00
7. Medical and dental expenses		\$ 75.00
8. Transportation (not including car payments)		\$ 175.00
9. Recreation, clubs and entertainment, newspapers, magazines, etc.		\$ 75.00
10. Charitable contributions		\$ 0.00
11. Insurance (not deducted from wages or included in home mortgage payments)		
a. Homeowner's or renter's		\$ 0.00
b. Life		\$ 92.00
c. Health		\$ 0.00
d. Auto		\$ 118.00
e. Other		\$ 0.00
12. Taxes (not deducted from wages or included in home mortgage payments)		
(Specify)		\$ 0.00
13. Installment payments: (In chapter 11, 12, and 13 cases, do not list payments to be included in the plan)		
a. Auto		\$ 400.00
b. Other		\$ 0.00
c. Other		\$ 0.00
d. Other		\$ 0.00
14. Alimony, maintenance, and support paid to others		\$ 0.00
15. Payments for support of additional dependents not living at your home		\$ 0.00
16. Regular expenses from operation of business, profession, or farm (attach detailed statement)		\$ 0.00
17. Other See Detailed Expense Attachment		\$ 359.00
18. AVERAGE MONTHLY EXPENSES (Total lines 1-17. Report also on Summary of Schedules and, if applicable, on the Statistical Summary of Certain Liabilities and Related Data.)		\$ 2,286.65
19. Describe any increase or decrease in expenditures reasonably anticipated to occur within the year following the filing of this document:		
None Anticipated		
20. STATEMENT OF MONTHLY NET INCOME		
a. Average monthly income from Line 15 of Schedule I		\$ 2,286.65
b. Average monthly expenses from Line 18 above		\$ 2,286.65
c. Monthly net income (a. minus b.)		\$ 0.00

SCHEDULE J - CURRENT EXPENDITURES OF INDIVIDUAL DEBTOR(S) - AMENDED

Detailed Expense Attachment

Other Expenditures:		
Chapter 13 Plan Payment	\$	269.00
Personal Grooming	\$	75.00
Emergencies/Miscellaneous	\$	15.00
Total Other Expenditures	\$	359.00